

Identified Issues within Existing Regulations

PART 1: DEFINITIONS

- **Act of God** added due to amendments to Chapter 68, Title 7 of the Delaware Code Relating to Beach Preservation on June 15, 2006, via Senate Bill 377.

- **Base Flood Elevation** added due to proposed regulation prohibiting non-essential construction below the base flood elevation seaward of the Building Line (see Section 3.01)

- **Beach** changed due to amendments to Chapter 68, Title 7 of the Delaware Code Relating to Beach Preservation on June 15, 2006, via Senate Bill 377.

- **Beach Preservation** changed due to amendments to Chapter 68, Title 7 of the Delaware Code Relating to Beach Erosion Control on July 17, 1984, via House Bill 607.

- **Buildable Lot** added to clarify “regulated area” definition

- **Building Line** changed due to amendments to Chapter 68, Title 7 of the Delaware Code Relating to Beach Preservation on June 15, 2006, via Senate Bill 377.

- **Coastal Engineering Standards of Storm Protection** added due to amendments to Chapter 68, Title 7 of the Delaware Code Relating to Beach Preservation on June 15, 2006, via Senate Bill 377.

- **Construction** changed due to amendments to Chapter 68, Title 7 of the Delaware Code Relating to Beach Erosion Control on July 17, 1984, via House Bill 607

- **Emergency** changed due to amendments to Chapter 68, Title 7 of the Delaware Code Relating to Beach Erosion Control on July 17, 1984, via House Bill 607.

- **Erosion** changed due to amendments to Chapter 68, Title 7 of the Delaware Code Relating to Beach Erosion Control on July 17, 1984, via House Bill 607.

- **Person** changed due to amendments to Chapter 68, Title 7 of the Delaware Code Relating to Beach Erosion Control on July 17, 1984, via House Bill 607.

- **Private beach** changed due to amendments to Chapter 68, Title 7 of the Delaware Code Relating to Beach Erosion Control on July 17, 1984, via House Bill 607.

- **Public Beach** changed due to amendments to Chapter 68, Title 7 of the Delaware Code Relating to Beach Erosion Control on July 17, 1984, via House Bill 607

- **Regulated area** added due to amendments to Chapter 68, Title 7 of the Delaware Code Relating to Beach Preservation on June 15, 2006, via Senate Bill 377

- **Smallest Subset of Lots** added to because it is in description of 4-step process

- **Substantial Damage** added due to amendments to Chapter 68, Title 7 of the Delaware Code Relating to Beach Preservation on June 15, 2006, via Senate Bill 377

- **Substantial Improvement** to offset substantial damage in replacing “complete destruction”

- **Temporary Structure** added to clarify what requires approval under a new temporary structures section (3.1)

2.6 Maintenance, Repairs, and Emergency Action

- **Maintenance, Repair and Relocation of Habitable Structures** If maintenance or repair work involves removing a structure located seaward of the Building Line from its foundation the structure shall be relocated landward of the building line or as far landward as possible.

- **Incorporate the following provision from the Act:**
Notwithstanding any provision of this section or regulations adopted by the Department, no property owner shall be prevented within the regulated area from repairing, modifying, modernizing, updating, or improving their existing structure, or, by performing such actions, be required to relocate or reduce in size so long as these repairs, modifications, or improvements are within the existing structure's foot print. Amendments to Chapter 68, Title 7 of the Delaware Code Relating to Beach Erosion Control on, via House Bill 178

2.7 Restoration or Reconstruction After Destruction

- **Restoration or Reconstruction after Substantial Damage or Removal, Siting Requirements** If a structure is to be either constructed or reconstructed following substantial damage or removal of the original structure, the structure must be located entirely landward of the Building Line or as far landward on the lot as possible.

2.8 Siting Requirements for Construction and Reconstruction of Structures

- Replace “complete destruction” with “substantial damage” or “substantial improvement”

2.12 Building Line Format

- This will be updated to reflect NAVD or “datum commonly used by surveyors”

2.13 Building Line Reestablished

- Introduction of maps using most recent topography

PART 3: Prohibited Activities

3.1 Construction Seaward of the Building Line

- **Other Structures** All non-essential portions of the dwelling located Seaward of the DNREC Building Line must be elevated above Base Flood Elevation. This is not new to the regulatory program. This requirement has been enforced since the January 4, 1992 coastal storm.

- **Decks** Current regulations allow property owners to cantilever a deck out as far as the neighbor located on a lot immediately adjacent to them within the same subdivision. The proposal is to allow the property owner to cantilever a deck out to point that is the average distance seaward of the Building Line of the property owners located within the smallest subset of lots, within the same subdivision as the parcel of on which the deck is proposed.

- **4 Step Process**

- Developed due to changes in the Beach Preservation Act following the passing of Senate Bill 425 on June 27, 1996, which reads:
- “If any structure proposed to be built in whole or in part seaward of the building line could reasonably be reduced in size or otherwise altered in order to eliminate or diminish the amount of encroachment over the building line, the Department shall require such reduction or alteration as a condition of granting the permit or letter of approval.”
- Since June 27, 1996, The Shoreline and Waterway Management Section has required that all new construction seaward of the DNREC Building Line follow the 4 Step Process. The first Permit issued using the 4 Step process was on March 24, 1997, in Pickering Beach. 51 Permits have been issued using this process.

- **Seasonal Structures** This section allows approval of temporary seasonal structures on the beach seaward of the active dune with conditions

3.2 Modification or Expansion of Structures Seaward of the Building Line

- **Decks** Current regulations allow property owners to cantilever a deck out as far as the neighbor located on a lot immediately adjacent to them within the same subdivision. The proposal is to allow the property owner to cantilever a deck out to point that is the average distance seaward of the Building Line of the property owners located within the smallest subset of lots, within the same subdivision as the parcel of on which the deck is proposed.

- **Incorporate the following provision from the Act:**
Notwithstanding any provision of this section or regulations adopted by the Department, no property owner shall be prevented within the regulated area from repairing, modifying, modernizing, updating, or improving their existing structure, or, by performing such actions, be required to relocate or reduce in size so long as these repairs, modifications, or improvements are within the existing structure's foot print. Amendments to Chapter 68, Title 7 of the Delaware Code Relating to Beach Erosion Control on, via House Bill 178

- Construction of any structure, or portion thereof, on any lot or parcel of real property that is located entirely seaward of the building line that was not owned by the applicant on the (effective date of the revised regulations)

3.3 Other Activities

- **Prohibited Activities**

- Transportation or storage of any type of boat across or on the primary dune on any beach except at locations approved or permitted by the Department; and

4.8 Construction Activities Landward of the Building Line and Within the Beach Area

- This section needs to be revised to swap out “within the beach area” to “within the regulated area” to incorporate the definition added to the Beach Preservation Act in 2006.

8.2 Violations and Penalties

- **Penalties** changed due to amendments to §6807 Penalties, Chapter 68, Title 7 of the Delaware Code Relating to Beach Erosion Control on July 17, 1984, via House Bill 607.